

STATE OF WISCONSIN  
BEFORE THE ARBITRATOR

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WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

In the Matter of the Petition of

WINNECONNE COMMUNITY SCHOOL DISTRICT

To Initiate Arbitration  
Between Said Petitioner and

Case 11  
No. 42096  
INT/ARB-5229  
Decision No. 26202-A

WINNECONNE COMMUNITY  
EDUCATION ASSOCIATION

APPEARANCES:

William G. Bracken on behalf of the District  
Gary L. Miller on behalf of the Association

On November 2, 1989 the Wisconsin Employment Relations Commission appointed the undersigned Arbitrator pursuant to Section 111.70(4)(cm) 6 and 7 of the Municipal Employment Relations Act in the dispute existing between the above named parties. A hearing in the matter was scheduled on February 15, 1990, but said hearing was cancelled due to inclement weather. The parties thereafter agreed to submit and exchange exhibits, rebuttal exhibits, and briefs through the mail. Said exchange was completed by April 12, 1990. Based upon a review of the foregoing record, and utilizing the criteria set forth in Section 111.70(4)(cm) Wis Stats., the undersigned renders the following arbitration award.

## ISSUES:

Two issues remain in dispute in the parties' negotiations for their 1989-91 Agreement: the salary schedule and health and dental insurance premiums for 1990-91.

The Board proposes a 5.3% salary increase equal to \$1462 per teacher in 1989-90, while the Association proposes a 6.3% increase, which equals \$1723 per teacher. In 1990-91 the Board proposes a 5.1% salary increase, which amounts to \$1464 per teacher, and the Association proposes a 5.9% increase, which amounts to an average increase of \$1719 per teacher. Neither party proposes changes in the number of training lanes or the number of experience steps in each lane.

On the insurance issue, there is no difference between the parties' proposals for the 1989-90 school year. The Association proposes that the Board pay 95% of the single and 87% of the family health insurance premium in 1990-91, and all of the single and 80% of the family dental insurance premium that same year, expressed in dollar amounts. In 1990-91, the Board proposes flat dollar amount contributions that reflect a maximum 20% increase above the 1989-90 health insurance premiums, and a 5% increase above the 1989-90 dental insurance premium. Within the cap proposed by the Board, it would amend the existing dollar amounts of the Board's contribution for health and dental insurance on both the single and family rates to reflect the 1989-90 proportion of the Board's contribution (Health Insurance: .87 for family/.95 for single. Dental Insurance: .80 for family/1.0 for single). Both proposals specify that they would be effective only for 1990-91.

Assuming an increase of approximately 20% in health insurance and 5% in dental insurance in 1990-91, the parties are approximately \$27,450 apart in 1989-90 and \$29,535 apart in 1990-91.

### District Position:

There are three relevant settlements in the East Central Athletic Conference. The parties do not dispute the comparability of the Conference districts. The 1989-90 settlement in Hortonville is the third year of a three year agreement. Little Chute settled a two year agreement for 1989-90 and 1990-91. Waupaca also settled for 1989-90 and 1990-91, and changed its salary schedule structure in both 1988-89 and 1989-90.

It is important however to note that both Little Chute and Waupaca obtained concessions on the issue of health insurance in their agreements. Little

Chute negotiated caps on District liability for future insurance increases, and Waupaca negotiated up front deductibles, which allowed teachers to receive a relatively high salary settlement. In light of these insurance deductibles, the average \$1800 salary increase in Waupaca really amounts to only approximately \$1600.

Also, it is important to note that in Hortonville, the Board pays 85% of the single and family health insurance premium, while Waupaca pays 100% of the single and 85% of the family premium. In contrast, Winneconne contributes a dollar amount equivalent to 95% for single and 87% for family health insurance.

The Association wants the same or more dollars generated in Little Chute and Waupaca, but it has not made the same kind of trade off on insurance.

The Board's salary offer also best matches the prevailing settlement trend as measured by dollar and % increases on the salary schedule benchmarks. The Board's salary offer is superior or closer to the settled average increase compared to the Association's offer in 24 of 32 cases of dollar and percent increases on the eight salary schedule benchmarks. The Board's offer is also above the average comparable increase in 10 out of 16 dollar increases on the benchmarks, and on a percentage basis, it is above the average prevailing settlement rate in 11 of 16 benchmarks.

The Board's offer also best matches the prevailing settlement trend on the basis of total package comparisons. The Board's offer is \$108 above the dollar average and .4% above the percentage average of the prevailing settlement pattern in 1989-90. In 1990-91, the Association's offer is slightly preferable on the salary only and total package dollar basis, but only by \$65, and this is based only upon two settled districts.

Most importantly, no other total package settlement comes close to what the Association is seeking in Winneconne.

The Association also cannot claim any need for catch up when the actual salaries in the District are compared against other comparable district salaries. While most of the District's benchmark salaries were below average in 1988-89, they were not out of line when compared to the District's comparables. There is also a rational reason for the District's relatively low ranking at the BA Maximum-Step 10. The District's salary schedule has the fewest number of steps in the Conference in the BA lane. The result is that teachers have greater financial incentive to grow professionally and earn more credits to advance on the salary schedule. Also, grandfathered employees in the BA lane are receiving salaries significantly above the

comparable average as shown by the BA Maximum-Step 15.

Relatedly, arbitrator Richard Miller recently concluded: "Any method of analysis establishes that Winneconne teachers are compensated at very competitive rates among the comparable school districts in the East Central Athletic Conference . . . . Teachers are fairly compensated in comparison to other comparable teachers. There is no 'catch-up' factor present in this case."

In fact, the rankings do not change appreciably under either party's offer. Both consistently rank Winneconne as second or third at most benchmarks.

The Association's comparison to average salary does not tell much. Little Chute is the wage leader. As a result, any comparison to Little Chute will show below average amounts. In addition, many arbitrators have refused to give a great deal of weight to average salary since it is completely dependent upon the age of the district's staff. Besides, Winneconne compares quite favorably in terms of average salary when looking at the entire set of comparable data. In 1988-89, the average teacher in Winneconne earned \$702.00 or 2.6% above the comparable average teacher salary.

Furthermore, Waupaca's average salary needs to be discounted by the new \$200 00 up front deductible that the average teacher enrolled in the family health insurance plan in that district will have to pay.

It is also clear from the record that no other public or private sector employee has received increases of the magnitude offered by the Board.

The Board's offer is also above the cost of living and must be preferred on this objective criterion. In this regard it is important to note that the cost of living criterion and the comparability criterion are two separate measures, and thus they must be viewed independently of each other. (Citation omitted)

With respect to the insurance issue, the Board seeks to bargain a total package with a degree of certainty that is not possible under the Association's offer. The rapid, double-digit increases in health insurance have created the absolute, critical need to limit the Board's financial exposure. Because the Association's offer is open ended and cannot be precisely determined, it is an unreasonable position to force upon the Board via arbitration.

Since the 1980-81 school year, the Board has paid dollar amounts equivalent to 85 to 88% of the family health plan and 95 to 100% of the single health

plan. In the parties' last three year Agreement, covering 1986-87 through 1988-89, the parties agreed that the health and dental insurance coverage would remain stated in dollar amounts. The 1988-89 Board contribution was stated in dollar amounts using the 1986-87 Board proportion of payment. The parties agreed to a "Memo of Understanding" which provided:

RE: Health and dental insurance contributions  
(1988-89)

This letter will amend the existing dollar amount of the Board's contribution for health and dental insurances on both the single and family rates to reflect the 1986-87 proportion of the Board's contribution to be effective only for 1988-89.

It is very clear that the 1988-89 "Memo of Understanding" was not meant to extend beyond the 1988-89 contract.

Prior bargaining history clearly shows that the parties have always bargained flat dollar amounts limiting the Board's contribution to the family health and dental insurance premiums. The Board is not seeking to change any existing practice in that regard.

Instead, it is the Union that is seeking to insert a percentage concept in the Agreement. If the Association truly believed that the ratio concept lived on past the expiration date of the 1988-89 Agreement, then the Board would have been required to pay the same proportion in 1989-90 during the contract hiatus. In fact, the Board has not done so, even though the Association filed a grievance on this issue. By withdrawing that grievance, the Association has waived its right to argue that the proportion concept lives beyond the expired agreement.

The Association cannot insist that the dollar amounts the parties have always agreed to equal percentages when the master agreement contains no express language guaranteeing percentage contribution on behalf of the Board.

With respect to dental insurance, the Board's contribution to single and family insurance has been stable at a dollar equivalent of 100 and 80%, respectively.

In the District, since 1980-81, family health insurance premiums have increased an average of 17% per year. Family dental insurance premiums have increased an average of 9% over the past five years. Health insurance

costs are predicted to go up at least 20 percent in 1990-91. Because of the magnitude of these increases, the Board must be able to ascertain its ultimate liability for providing such fringe benefits in a multi-year contract.

Because the risk is born predominantly by the Board, the arbitrator should view the 20% projected health insurance increase and the 5 % projected dental insurance increase as reasonable for determining 1990-91 total package costs, particularly since the Board's proposal is based on estimates of what 1990 increases are likely to be. This is particularly so since the Board's 1990-91 proposal will amount to a 6% increase worth more than \$2300 per teacher.

The Board's insurance proposal also will force the parties to negotiate the amount of money that the Board must pay for health and dental insurance. Under the Association's proposal however, no such bargaining need take place. The Board views this approach as constituting a serious waiver of its right to bargain a significant and costly fringe benefit.

The Board's insurance proposal is also the preferred way to make employees realize how expensive health insurance really is.

When looking at comparables, it is important to note that the parties in the Little Chute District have already agreed to caps on District liability for increases in health insurance at 20%, and 5% for dental insurance. Waupaca was successful in obtaining a \$100/\$200 up-front deductible that saved 5% of their overall health insurance costs. All of the other seven schools in the Conference currently have employees paying a portion of their health insurance premiums. In the Wautoma and Berlin School Districts, the parties have reached tentative agreements that would have the Board continue paying the same percentage in the past. Berlin pays 92% of the single or family premium, and Wautoma pays 100% of the single and 95% of the family premium. The two settlements that do not have a cap limit the Board's contribution at 85%. If the Association does not want to have a cap, then it should agree to reducing the Board's contribution from 87 and 95% to 85% to bring it in line with the other two districts that have settled without a health insurance cap.

The Association has offered the Board no quid pro quo for accepting an above average salary settlement with no insurance concession, as was found in Waupaca and Little Chute.

Also noteworthy is the fact that district insurance contributions are reflected in dollar amounts in a majority (five out of eight) of comparable districts.

Relatedly, arbitrators have repeatedly been finding that reasonable attempts by school districts to contain health care costs should be accepted. (Citations omitted)

Most importantly, a total package analysis should be utilized by the arbitrator, since such an approach is the most meaningful way to measure the reasonableness of any settlement. (Citations omitted) A total package approach concentrating on the dollars and percent per returning teacher is the best measure of a fair settlement. The Association's offer exceeds the average total package settlement rate by 1.3% in 1989-90 and 5% in 1990-91. Such a package clearly is not reasonable or necessary, particularly since the average teacher in the District received a total compensation that was nearly \$1,029 above the comparable 1988-89 average.

The interest and welfare of the public are also best reflected in the Board's offer. In this regard it is important to note that the District has a low pupil/teacher ratio; its levy rate and costs per student rank near the comparable average, and it is a rural school district. There is also no evidence in the record that the District has any staffing problems due to low salaries. Based upon all of these considerations, the Board has attempted to construct a final offer which reasonably meets the needs of both the taxpayers in the District and the teachers

In response to the Association's objection to the District's evidence based upon WASB survey data, this is the best source of data available, and it should be accepted by the arbitrator. If the Association believed errors existed in the data, it was free to submit rebuttal documents to correct the record.

The Association's objection to the Hortonville data is also not meritorious, since it has introduced no evidence indicating that economic conditions have changed since Hortonville settled its three year agreement.

The real essence of the dispute is an economic issue, i.e., how much should the District be required to spend?

The Association's assertion that the District proposes double capping is misplaced. The existing agreement reflects a dollar amount cap for 1989-90. The same thing will occur under both parties' final offers for 1990-91. The Association's dollar cap will float based on a percentage, while the Board's does not.

**ASSOCIATION POSITION:**

The District's total package costing evidence derived from the WASB database should be given little or no weight because of its manifest incompleteness, inaccuracies, and inconsistencies. In addition, the District's assertion that the District is "rural" is also not fair since only about 35% of the land in the District is classified as agricultural, and in addition, employment in agriculture in the District is only a small percent of the total District employed population.

In response to the District's comparability arguments, Hortonville's two year old settlement should be excluded in favor of the Little Chute and Waupaca contemporary settlements. The record indicates that the parties in Hortonville agreed to front end load their three year contract, which resulted in a very low third year settlement for 1989-90. Thus, the arbitrator should only consider agreements reached under contemporary economic conditions.

The parties have been guided by the ratio of Board payments for health and dental insurance that existed in the 1988-89 Agreement at least back through the 1985-89 Agreement. The insurance issue was not in dispute during the 1985-86 interest arbitration case decided by Richard Miller. The Association's proposal on this issue conforms to this long standing practice. The District's proposal however ignores this long standing practice and sets new "double-capped" premium contribution levels in 1990-91. The double capping results because of the maximum increase on the cap which the District has proposed. Such a change should be viewed as an attempt by the District to change the parties' contract language.

Comparable settlements and tentative agreements do not support such an involuntary change in the status quo. The record indicates that only the Little Chute School Board pays the full cost of health and dental insurance premiums through the 1988-89 contract year. The rest of the Conference districts have co-payment of premiums for at least the family health and dental premium costs. This arrangement continues through the 1989-90 school year for all Conference school districts. For 1990-91, only Little Chute has voluntarily accepted a "cap" on District paid health and dental insurance premiums like the District is proposing herein. On the other hand, tentative agreements by the parties in Berlin and Wautoma will guarantee that the status quo District paid proportions for health and dental insurance premiums will continue for the 1989-91 contract period in dispute. Further, Waupaca also reached a voluntary agreement for 1989-91 which guarantees the continuation of the District's status quo proportion of monthly health and dental insurance premiums. Hortonville, likewise, continued their status quo proportional payment throughout their three-year voluntary settlement.

While Little Chute and Waupaca negotiated insurance concessions in their

last round of negotiations, these concessions were voluntary and were balanced by wage increases commensurate with changes in salary schedule, insurance carrier, and benefit package.

Also, the family health proportions paid by the District were below the average of the Conference comparables in 1988-89. When these proportions are applied to 1989-90 health insurance rates, the actual premiums paid by the District are just slightly above average in the single premium category, but significantly below average in the family premium category.

When a similar analysis is done with dental insurance co-payment proportions and actual premiums paid for 1989-90, the District's proportion for single premium payments is slightly above the Conference average (excluding Hortonville), but the District's .80 proportion for family premium payments is substantially below the Conference average. In fact, the District's .80 family dental proportion is the lowest of the seven Conference comparables. The District also pays significantly less for dental insurance than the average of the seven comparable districts.

Since the District is currently paying less for health and dental monthly premiums than the comparables, it is difficult to justify the additional premium payment burden advocated by the District in this proceeding.

This is particularly true since the tax paying public in the District received a tax break during the pendency of this case due to the increase of more than \$11 million in property valuation in the District.

In addition, the District has not offered a quid pro quo for its proposed change in the status quo.

Lastly, with respect to this issue, the Association has been responsive to the District's concerns regarding the cost of health insurance in that it has agreed to fold in both the second-opinion and hospitalization pre-admission review procedures contained in the the health insurance group I plan with the WEA Insurance Trust, Inc.

The Association final offer also best reflects benchmark placements in comparable settlements. Even with Hortonville included in the 1989-90 data, the District's final offer benchmarks decline in value from the averages in six out of seven categories in moving from 1989-90 to 1990-91, while the Association's final offer benchmarks improve in only two out of seven categories, and decline in value in the remaining five categories--only to a lesser degree than the District. The combined, two-year impact has the Association's final offer benchmarks improving in all categories while the

District's final offer improves in two categories and declines in five categories. Even though the Association's final offer shows an improvement in all benchmark categories, five of the seven categories show a negative difference still. When the 1990-91 differences of the final offers are compared with the 1988-89 benchmark differences, the Association's final offer is more comparable.

The Association's proposed increase in average salaries also best reflects cost of living application on contemporary settlements. The average Winneconne teacher salary for 1988-89 is \$63 below the average of Little Chute and Waupaca. It declines to \$123 below the 1989-90 average salary and improves slightly to \$105 below the 1990-91 average, according to the Association's final offer. The average 1989-90 salary under the District's final offer declines to \$384 below average and the average salary declines even further to \$621 below the contemporary average salary settlement

Under the Association's salary proposal, the percent of increases on average salaries over the 1989-91 period more closely reflects the percent increases of Little Chute and Waupaca. Over the two year period, the total percent difference reflected in the Association's final offer is just .02% below average, while the District's final offer is almost 1.0% below the two year average.

The record provides reliable total package cost evidence for only the Little Chute settlement. That evidence indicates that for the first year, both final offers are below Little Chute's average total package dollar increase, with the District's position being \$305 below the Association's. The proposed percentage increases are equally above and below the Little Chute settlement. In 1990-91, the Association's final offer average total package increase is more comparable to Little Chute's in all respects.

In this regard, the increase in average salaries is the best measure of the settlements and the application of the cost of living to the final offers. This is particularly true where, as here, one of two comparables (Waupaca) made considerable changes in their '89-90 salary schedule so that actual salary schedule placements do not necessarily equal years of experience.

#### DISCUSSION:

This is a difficult and close case based upon the fact that comparable settlements are few, comparisons with comparable salary schedules are in some cases unreliable based upon the negotiated restructuring of such schedules, the evidence with respect to the dollar value of total package costs in comparable districts is not sufficiently reliable to be given significant

weight; no clearly established pattern exists regarding comparable district contributions to health and dental insurance, one relevant comparable is in the last year of a three year agreement which was front end loaded and negotiated several years ago, and the economic impact of the differences between the parties' offers for 1990-91 is difficult, if not impossible to ascertain. Based upon such considerations, it has not been possible for the undersigned to ascertain any clearly established patterns, based upon traditional comparability considerations, which can fairly be utilized to dictate the outcome of this dispute.

What is evident and relevant from the record are the following facts: The District has been relatively competitive with its comparables in its salary and benefit package; the Association's is slightly more in line (in terms of the percentage value of its proposed salary increases) with comparable contemporaneous salary settlements than is the District; that comparable contemporaneous salary settlements however have been somewhat offset by insurance concessions which the Association is unwilling to agree to; that comparable districts are continuing to strive toward obtaining more control over their liability for spiraling health insurance costs and that they have continued to experience some success in that regard in the current round of negotiations; that the parties in the District have always agreed to dollar amounts rather than percentages in defining the District's contribution toward health and dental insurance premiums; and that the percentage value of the District's contribution has varied over time, though in recent years it has remained constant.

What all of this probably means is that the Association's salary proposal is slightly more reasonable than the District's when one tries to project what is likely to occur in the area, while the District's insurance proposal is likely to be more in line with the thrust of current trends.

The undersigned is thus faced with the task of choosing between final offer packages both of which contain elements which can be characterized as fair and/or reasonable based upon what is happening elsewhere in the comparable collective bargaining environment.

In the undersigned's opinion, what clearly would have been a preferable solution in the instant circumstances would have been an agreement wherein the parties would have agreed to continue their 1989-90 dollar/proportion insurance arrangement into 1990-91 up to the 20 and 5% projected increases discussed herein, and if the actual increases exceed that amount, the parties could have agreed to reopen negotiations to address that single issue, based upon information which is not currently available to them.

In all candor, based upon all of the above considerations, neither party's final offer merits the undersigned's enthusiastic support, since selection of the District's offer will result in possible insurance concessions and a possibly lower than average salary settlement, while selection of the Association's position may result in a relatively comparable salary settlement which fails to acknowledge and address the Board's legitimate concerns about controlling District costs in the health insurance area and which fails to follow potential settlement trends on this issue.

Based upon the undersigned's statutory responsibilities, the undersigned reluctantly selects the Association's final offer in that it appears to be relatively competitive with current salary settlement trends, and maintains the parties' current risk sharing responsibility for funding health insurance premium increases at a level that is generally competitive with comparable school district agreements.

Based upon the foregoing considerations the undersigned hereby renders the following:

#### ARBITRATION AWARD

The Association's final offer shall be incorporated into the parties 1989-91 collective bargaining agreement.

Dated this <sup>2nd</sup> day of May, 1990 at Madison, Wisconsin.

  
Byron Yaffe  
Arbitrator